IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.6951 OF 2005

S.S. Mayekar).. Petitioner

Versus

G.R. Patwardhan).. Respondent

Mr.M.B. Baadkar for the Petitioner.

Mr.N.N. Gawankar with Mr.Arfan Sait for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 17TH OCTOBER 2005

P.C.:

. This Petition challenges the order of the Appellate Court allowing the Appeal filed by the Respondent. The order passed in Regular Darkhast No.61 of 2000 is set aside and the Regular Darkhast proceedings is restored to file while possession warrant in respect of two sheds is directed to be issued.

2. The main contention of the Petitioner is that the trial Court in the Darkhast proceedings has already held that the decree has been satisfied. The suit premises are belonging to the Petitioner consist of three rooms only and no further area. According to the Respondent, the suit premises are described in the Plaint as three rooms along with padvis which have been built as

temporary sheds. The Plaintiff has sought attachment not only of three rooms but also of the "padvis". The execution proceedings which were initiated record that the Petitioner has already handed over the three rooms bearing house No.3610 to the decree-holder and the padvis have remained with the Petitioner. Aggrieved by this order, the Respondent had filed the Appeal. The Appeal is decided in his favour.

3. In my view, the description of the suit premises in paragraph 2 of the Plaint leaves no room for doubt that the suit premises consisted of three rooms as well as the adjoining sheds erected by the Petitioner. Therefore, there is no need to interfere with the order passed by the Appellate Court. Petition rejected.